

## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/042,570	01/09/2002	Der-Hou Tsou	HC01-001	6622	
28112 75	90 10/18/2004		EXAMINER		
GEORGE O. SAILE & ASSOCIATES			KUNEMUND	KUNEMUND, ROBERT M	
28 DAVIS AVENUE POUGHKEEPSIE, NY 12603			ART UNIT	PAPER NUMBER	
	<b>,</b>		1765		
			DATE MAILED: 10/18/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a nal rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in ondition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.  pERICOL FOR REPLY (check either a) or b)]    The period for reply expires		Application No.	Applicant(s)				
Examiner Robert M Kunemund 1765  -The MAILING DATE of this communication appears on the cover sheet with the correspondence address -  HE REPLY FILED 21 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. herefore, further action by the applicant its required to avoid abandonment of this application. A proper reply to a nail rejection under 37 CFR 1.113 may only be either. (1) a timely filed amendment which places the application in ondition for allowance; (2) a timely filed Notice of Appeal (with appeal fee; or (3) a timely filed Request for Continued xamination (RCE) in compliance with 37 CFR 1.114.  PERIOD FOR REPLY [check either a) or b)  The period for reply expires on (1) the mailing date of the final rejection.  PERIOD FOR REPLY [check either a) or b)  The period for reply expires on: (1) the mailing date of the final rejection. Whichever is later. In no event, however, will the estitutory period for reply expires on: (1) the mailing date of the final rejection. Notice of the final rejection of the final rejecti	Advisory Action	10/042,570	TSOU ET AL.				
-The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  HE REPLY FILED 21 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE herefore, further action by the applicant is required to avoid abandoment of this application. A proper reply to a nail rejection under 37 CFR 1.13 may only be either: (1) a timely filed amendment which places the application in ondition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued examination (RCE) in compliance with 37 CFR 1.114.  PERIOD FOR REPLY [check either a) or b)  a) The period for reply expires on: (1) the mailing date of the final rejection.  PERIOD FOR REPLY [check either a) or b)  The period for reply expires on: (1) the mailing date of the Month of the mailing date of the final rejection. Only CHECK THIS BOX WHIEN THE FIRST REPLY WAS FILED WITHIN TYPO MONTHS OF THE FINAL REJECTION. See MPEP (1) The period of the propose of determining the period of expires where the period of the propose of determining the period of expires and the composes of determining the period of expires and the composes of determining the period of expires produced by the Office later than three months after the mailing date of the final rejection, when it timely filed, may reduce any strength and the composes of determining the period of expires produced by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any strength and the composed of the proposed of determining the period of expires and the composed of the final rejection.  A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  The proposed amendment (s) will not be entered because:  (a)	Authory Motion	Examiner	Art Unit				
HE REPLY FILED 21 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. herefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a main rejection under 37 CFR 1.137 may <u>only</u> be either. (1) a timely filed amendment which places the application in condition for allowance, (2) a limely filed Notice of Appeal (with appeal tee); or (3) a timely filed Request for Continued Examination (ReCE) in compliance with 37 CFR 1.134.    PERIOD FOR REPLY [check either a) or b)		Robert M Kunemund	1765				
therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a nal rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in ondition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.  pERICOL FOR REPLY (check either a) or b)]    The period for reply expires	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence address				
a) _ The period for reply expires	THE REPLY FILED 21 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.						
the period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the statutory period for reply expire later than SLM MONTH'S form the mailing date of the final rejection. ONLY CHECK THIS BOX WHEAL THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 705.07(i).  NEXT OF THE FINAL REJECTION. See MPEP 705.07(i) may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee see been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 7 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in 37 CFR 1.192(a), or any extension the received by the Office later than three months after the mailing date of the final rejection, even if timely find may reduce any amed patent term adjustment. See 37 CFR 1.704(b).  A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  Chapter of the proposed amendment(s) will not be entered because:  (a) they raise new issues that would require further consideration and/or search (see NOTE below);  (b) they raise the issue of new matter (see Note below);  (c) they raise the issue of new matter (see Note below);  (d) they raise the deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or  (d) they raise the issue of new matter (see Note below);  (d)	PERIOD FOR REPLY [check either a) or b)]						
7 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final critice action, or (2) as set forth in o above, if checked. Any reply rescribed by the Office later than three months after the mailing date of the final rejection, even if timely flied, may reduce any arread patent term adjustment. See 37 CFR 1.704(b).    A Notice of Appeal was filed on Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.    The proposed amendment(s) will not be entered because:	b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee						
37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  2. ☐ The proposed amendment(s) will not be entered because:  (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  (b) ☐ they raise the issue of new matter (see Note below);  (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:  3. ☐ Applicant's reply has overcome the following rejection(s):  4. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  5. ☐ The alf affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note.  3. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) withdrawn from consideration:  Claim(s) withdrawn from consideration:  The drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.  ROBERT KUNEMUND	have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
(a)	37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.						
(b) ☐ they raise the issue of new matter (see Note below);  (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	2. The proposed amendment(s) will not be entered because:						
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	(a) They raise new issues that would require further consideration and/or search (see NOTE below);						
issues for appeal; and/or  (d) they present additional claims without canceling a corresponding number of finally rejected claims.  NOTE:	(b) they raise the issue of new matter (see Note below);						
NOTE:  3. Applicant's reply has overcome the following rejection(s):  4. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note.  6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  3. The drawing correction filed on is a) approved or b) disapproved by the Examiner.  9. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  ROBERT KUNEMUND							
Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) withdrawn from consideration:  Claim(s) withdrawn from consideration:  B. The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  ROBERT KUNEMUND							
canceling the non-allowable claim(s).  The a   affidavit, b   exhibit, or c   request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  For purposes of Appeal, the proposed amendment(s) a)   will not be entered or b)   will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  B.   The drawing correction filed on is a)   approved or b)   disapproved by the Examiner.  Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s)  ROBERT KUNEMUND	3. Applicant's reply has overcome the following rejection	tion(s):					
application in condition for allowance because: see note.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:	4. Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment						
raised by the Examiner in the final rejection.  7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  Claim(s) withdrawn from consideration:  Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  ROBERT KUNEMUND	5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see note.						
For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  ROBERT KUNEMUND	The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly						
Claim(s) allowed:  Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  Claim(s) withdrawn from consideration:  The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  O Other:	7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an						
Claim(s) objected to:  Claim(s) rejected:  Claim(s) withdrawn from consideration:  B. The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  O. Other:	The status of the claim(s) is (or will be) as follows:						
Claim(s) rejected:  Claim(s) withdrawn from consideration:  B. The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  O. Other:	Claim(s) allowed:						
Claim(s) withdrawn from consideration:  B. The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  O. Other:  ROBERT KUNEMUND	Claim(s) objected to:						
The drawing correction filed on is a) approved or b) disapproved by the Examiner.  D. Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s)  O. Other:  ROBERT KUNEMUND	Claim(s) rejected:						
O.☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)  O.☐ Other:  ROBERT KUNEMUND	Claim(s) withdrawn from consideration:		Λ				
0. Other:  ROBERT KUNEMUND	8. $\square$ The drawing correction filed on is a) $\square$ app	roved or b) disapproved by	the Examiner. //				
ROBERT KUNEMUND	9. Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s)						
	10. Other:	4					
PHIMARY EXAMINER			OBERT KUNEMUND RIMARY EXAMINER				

U.S. Patent and Trademark Office PTOL-303 (Rev. 11-03) Art Unit: 1765

Applicant's arguments filed September 21, 2004 have been fully considered but they are not persuasive.

Applicants' arguments concerning the prior art have been noted. However, it is the examiner's position that the prior art does teach the claimed invention. The reference does teach a ferroelectric material. The Korkishko et al and Yamada references teach a two-step treatment of annealing and reverse proton exchange. The reference also teaches the diffusion process. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).